

## **REMARKS**

This amendment is in response to the Office Action dated April 24, 2009. Because this response is mailed on August 21, 2009 with a one-month extension and a Request for Continued Examination, the amendment is timely filed and shall be considered.

### **I. Status of the Amendments**

Prior to this amendment, claims 1-3 and 6-14 were pending. By this amendment, claims 1 and 14 have been amended. Support for the amendments to claim 1 may be found, for example, in Figs. 1 and 3-5, as well as at page 4, lines 7-15. Consequently, claims 1-3 and 6-14 remain pending.

### **II. Response to April 24 Office Action**

Claim 14 was objected to for a typographical error. Claim 14 has been amended to correct the typographical error.

Claims 1-3 and 6-10 were rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Gamberini (U.S. Patent No. 3,059,650) in view of Chard (U.S. Patent No. 4,630,618). Claims 11-14 were rejected as being allegedly unpatentable over Gamberini in view of Chard further in view of Hagemann et al. (U.S. Patent No. 4,685,476). Applicants have amended claim 1 in a minor respect, and respectfully disagree.

At the outset, independent claim 1 recites a method for changing the tobacco fed into a cigarette manufacturing machine, not a method for operating a cigarette manufacturing machine that manufactures a cigarette using a varying tobacco blend. More particularly, the recited method involves changing completely between two different tobaccos fed into a cigarette manufacturing machine without stopping the cigarette manufacturing machine.

As recognized in paragraph 11 of the April 24 Office Action, Gamberini lacks the majority of the limitations of claim 1. Gamberini does not disclose or teach: (1) two types of tobacco; (2) cutting off supply of a first type of tobacco to an input hopper; (3) unloading the first type of shredded tobacco from the input hopper, a channel, and a forming table by

activating automatically a deflecting member to deflect a waste stream of shredded tobacco of the first type into container means arranged at the output end of the forming table and by leaving the conveyor of the forming table running; (4) feeding, when the input hopper, channel and forming table are completely empty, the second type of shredded tobacco through the supply header, input hopper and forming table by leaving the conveyor of the forming table running; (5) deflecting the second type of shredded tobacco into the container means arranged at the end of the forming table by means of the deflecting member until the forming table is completely full; and (6) deactivating automatically the deflecting member when the regular production using the second type of shredded tobacco is ready to be started.

Reliance is placed on Chard to supply the missing limitations of Gamberini. In fact, Chard does not disclose the missing limitations of Gamberini.

Chard relates to a method of overlaying one type of tobacco onto another type of tobacco to produce a product that is a composite of the two types of tobacco. Fig. 6 of Chard shows a typical configuration of two types (A and B) of tobacco in the resultant rod, while Fig. 7 of Chard shows a typical configuration of tobacco types (A and B) in a resultant cigarette. To overlay the second type (B) of tobacco onto the first type (A) of tobacco, Chard discloses storage means, an air pervious conveyor belt, a vacuum source located on one side of the belt, and means located on the other side of the belt for depositing first and second types of tobacco so that the second type (B) overlies the first type (A). Gate means are included to allow predetermined amounts of the first type (A) of tobacco to be periodically deposited on the belt upstream of the second type (B) of tobacco. Chard, col. 1:45-57.

To vary the proportions of the first type of tobacco in the resultant tobacco rod, Chard may momentarily interrupt delivery of the first type such that only the second type of tobacco will be deposited periodically on the belt. Chard, col. 2:6-14. However, because of the speeds at which the machinery is operating and the length of the cigarette product, this momentary interruption is necessarily very short (approximately a few fractions of a second). Moreover, the operation must occur repeatedly throughout the operation of the machine (for example, 6000-8000 times per minute in a slow cigarette making machine) to produce the cigarette as shown in Fig. 7.

Therefore, Chard does not disclose or teach, at least: (1) *cutting off* supply of said first type of tobacco *to the input hopper*, (2) *unloading the first type of shredded tobacco*

*from the input hopper, channel and forming table by activating automatically a deflecting member arranged at the output end of the forming table and by leaving the conveyor of the forming table running, (3) feeding, when the input hopper, channel and forming table are completely empty, the second type of shredded tobacco through the supply header, input hopper and forming table, (4) deflecting the second type of shredded tobacco into the container means arranged at the end of the forming table by means of the deflecting member until the forming table is completely full, and (5) deactivating automatically the deflecting member when the regular production using the second type of shredded tobacco is ready to be started.*

At best, Chard suggests using a gate in a stream of tobacco to divert one portion or another of the stream for a limited period of time. See Chard, col. 3:24-32, where the timing and the alternative placements of the gate are discussed. To reach the claimed invention, one would have to take the gate of Chard and place it *entirely outside the stream of tobacco* so as to divert all of the tobacco in the allegedly corresponding hopper. Moreover, one would have to divert all of the tobacco not for a short period of time, but *until after the allegedly corresponding forming table is first completely empty* of a first type of tobacco *and then completely full* of a second type of tobacco. The placement suggested in the rejection for the amount of time suggested in the rejection is completely contrary to the operation of Chard, and would render it unsatisfactory for its intended purpose and change its principle of operation. See Manual of Patent Examining Practice (MPEP) § 2143.01 V and VI. Applicants submit that any such modification of Chard in an attempt to combine it with Gamberini to render the claimed subject matter obvious is not within the scope of the skill of an ordinary person, but would require extraordinary skill.

The April 24 Office Action in as much admits that reliance on Chard alone will be insufficient. In paragraph 13, it is simply suggested that one would use the gate of Chard in the process of Gamberini, without any further mapping of the combination to the admittedly missing limitations. Paragraphs 14 and 15 of the April 24 Office Action continue on to draw upon unspecified sources and generalized motivations to modify Gamberini still further to allegedly provide missing limitations. In the process, the April 24 Office Action admits that the combination of Gamberini and Chard is insufficient without these further modifications to Gamberini.

Even then, with the modifications made in paragraph 14 and 15, each and every limitation of the claimed subject matter has not been accounted for in the rejection. Take, for example, the modification suggested in paragraph 14. It is admitted that Gamberini ***does not teach that the hopper is loaded and unloaded*** while the conveyor associated with the forming table is left running. It is suggested that Gamberini would be modified to leave the conveyor running to minimize downtime and maximize production while ***loading*** the hopper. However, even if Gamberini was modified in this fashion, Gamberini would still be ***lacking the motivation to unload the hopper*** by activating the gate and ***by leaving the conveyor of the forming table running***. The limitation requires more than simply the fact that the conveyor is left running while these events occur, but that these events occur ***because*** the conveyor is left running. Even if one skilled in the art disregarded the teachings in the art not to leave the table running, allegedly motivated to do so to minimize downtime and maximize production, there is still no explanation as to why one skilled in the art would choose to unload the hopper by leaving the conveyor running.

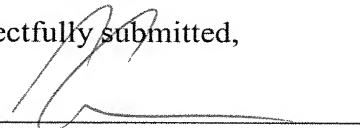
In order to reach the invention as claimed by independent claim 1, one would have to disregard the fact that Gamberini and Chard are completely silent about how to perform a product change, i.e., the unloading of one tobacco from the input hopper and related machinery and the loading of a completely different tobacco. There is no suggestion to combine the references as they have been, unless applicants' own disclosure is used as a template, and even doing so does not result in a method that evidences each and every limitation of the claimed invention. "To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art" MPEP § 2143.03. Accordingly, each and every limitation of amended claim 1 is not present in the combination of Gamberini and Chard. Thus, independent claim 1 is patentable in view of Gamberini and Chard.

Claims 2, 3 and 6-14 depend from claim 1, and recite additional details of the method. Because claim 1 is novel and patentable relative to Gamberini and Chard, claims 2, 3 and 6-14 are novel and patentable for at least this reason. However, applicants submit that the details recited in claims 2, 3 and 6-14 may also provide a basis for allowance of the claims.

In view of the foregoing, it is respectfully submitted that the above application is in condition for allowance, and reconsideration is respectfully requested. If there is any matter that the Examiner would like to discuss, the Examiner is invited to contact the undersigned representative at the telephone number set forth below. In any event, the Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith to our Deposit Account No. 13-2855, under Order No. 20022/41353.

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Respectfully submitted,

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